

made accessible to the maximum extent without resulting in disproportionate costs;

(2) In this situation, the public entity should give priority to accessible elements that will provide the greatest access, in the following order:

- (i) An accessible entrance;
- (ii) An accessible route to the altered area;
- (iii) At least one accessible restroom for each sex or a single unisex restroom (where there are one or more restrooms);
- (iv) Accessible telephones;
- (v) Accessible drinking fountains;
- (vi) When possible, other accessible elements (e.g., parking, storage, alarms).

(g) If a public entity performs a series of small alterations to the area served by a single path of travel rather than making the alterations as part of a single undertaking, it shall nonetheless be responsible for providing an accessible path of travel.

(h)(1) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alteration to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel is disproportionate;

(2) For the first three years after January 26, 1992, only alterations undertaken between that date and the date of the alteration at issue shall be considered in determining if the cost of providing accessible features is disproportionate to the overall cost of the alteration.

(3) Only alterations undertaken after January 26, 1992, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alteration.

§ 37.45 Construction and alteration of transportation facilities by private entities.

In constructing and altering transit facilities, private entities shall comply with the regulations of the Department of Justice implementing Title III of the ADA (28 CFR part 36).

§ 37.47 Key stations in light and rapid rail systems.

(a) Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in § 37.43 of this part.

(b) Each public entity shall determine which stations on its system are key stations. The entity shall identify key stations, using the planning and public participation process set forth in paragraph (d) of this section, and taking into consideration the following criteria:

(1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;

(2) Transfer stations on a rail line or between rail lines;

(3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;

(4) End stations, unless an end station is close to another accessible station; and

(5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.)

(c)(1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as possible, but in no case later than July 26, 1994.

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(2) The FTA Administrator may grant an extension of this completion date for key station accessibility for a period up to July 26, 2020, provided that two-thirds of key stations are made accessible by July 26, 2010. Extensions may be granted as provided in paragraph (e) of this section.

(d) The public entity shall develop a plan for compliance for this section. The plan shall be submitted to the appropriate FTA regional office by July 26, 1992. (See appendix B to this part for list.)

(1) The public entity shall consult with individuals with disabilities affected by the plan. The public entity also shall hold at least one public hearing on the plan and solicit comments on it. The plan submitted to FTA shall document this public participation, including summaries of the consultation with individuals with disabilities and the comments received at the hearing and during the comment period. The plan also shall summarize the public entity's responses to the comments and consultation.

(2) The plan shall establish milestones for the achievement of required accessibility of key stations, consistent with the requirements of this section.

(e) A public entity wishing to apply for an extension of the July 26, 1993, deadline for key station accessibility shall include a request for an extension with its plan submitted to FTA under paragraph (d) of this section. Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alterations of similar magnitude and cost). Requests for extensions shall provide for completion of key station accessibility within the time limits set forth in paragraph (c) of this section. The FTA Administrator may approve, approve with conditions, modify, or disapprove any request for an extension.

[56 FR 45621, Sept. 6, 1991, as amended at 58 FR 63102, Nov. 30, 1993; 79 FR 21405, Apr. 16, 2014]

49 CFR Subtitle A (10-1-14 Edition)

§ 37.49 Designation of responsible person(s) for intercity and commuter rail stations.

(a) The responsible person(s) designated in accordance with this section shall bear the legal and financial responsibility for making a key station accessible in the same proportion as determined under this section.

(b) In the case of a station more than fifty percent of which is owned by a public entity, the public entity is the responsible party.

(c) In the case of a station more than fifty percent of which is owned by a private entity the persons providing commuter or intercity rail service to the station are the responsible parties, in a proportion equal to the percentage of all passenger boardings at the station attributable to the service of each, over the entire period during which the station is made accessible.

(d) In the case of a station of which no entity owns more than fifty percent, the owners of the station (other than private entity owners) and persons providing intercity or commuter rail service to the station are the responsible persons.

(1) Half the responsibility for the station shall be assumed by the owner(s) of the station. The owners shall share this responsibility in proportion to their ownership interest in the station, over the period during which the station is made accessible.

(2) The person(s) providing commuter or intercity rail service to the station shall assume the other half of the responsibility. These persons shall share this responsibility. These persons shall share this responsibility for the station in a proportion equal to the percentage of all passenger boardings at the station attributable to the service of each, over the period during which the station is made accessible.

(e) Persons who must share responsibility for station accessibility under paragraphs (c) and (d) of this section may, by agreement, allocate their responsibility in a manner different from that provided in this section.